

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 13,057

)

Appeal of )

)

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare reducing her food stamps. The issue is whether a divorce property settlement the petitioner receives in monthly installments constitutes unearned income within the meaning of the pertinent regulations.

FINDINGS OF FACT

The facts are not in dispute. In June, 1994, the petitioner reported to the Department that beginning in August, 1994, she would begin receiving payments of \$100.00 per month from her ex-husband as part of a \$1,500.00 property settlement reached in their divorce.

The Department counted these payments as unearned income to the petitioner and, beginning August 1, 1994, it reduced the petitioner's food stamps accordingly. The petitioner does not dispute that if these payments constitute unearned income, the Department has correctly computed the amount of her food stamps.

ORDER

The Department's decision is affirmed.

REASONS

Food Stamp Manual (F.S.M.) § 273.9(b)(2)(v) includes in the definition of "unearned income":

. . . all other direct money payments from any source which can be construed to be a gain or benefit.

Under the regulations (§ 273.9[c][8]) "money received in the form of a nonrecurring lump-sum payment" (emphasis added) is counted as a resource in the month it is received. The petitioner would probably be better off (food stamps-wise, at least) if she received her property settlement in one lump-sum. <sup>(1)</sup> Unfortunately, however, under the regulations, as long as she receives the settlement in regular

monthly payments, each payment is considered income in the month it is received.

Inasmuch as the Department's decision is in accord with the regulations it must be affirmed. 3 V.S.A. § 3091(d) and Food Stamp Fair Hearing Rule No. 17.

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1. The petitioner might wish to consider renegotiating her divorce settlement so that the balance she is owed can be paid in one lump-sum. If she does, she should promptly report this to the Department.